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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,759	07/20/2001	Aribert P. Wolframm	WOLFRAMM ET	1045

25889 7590 03/11/2003

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EXAMINER

BUCZINSKI, STEPHEN C

ART UNIT	PAPER NUMBER
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3662

DATE MAILED: 03/11/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

Applicant(s)

Examiner

Group Art Unit

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Response

A SHORTENED STATUTORY PERIOD FOR RESPONSE IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a response be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for response specified above is less than thirty (30) days, a response within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for response is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to respond within the set or extended period for response will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).

Status

- ☒ Responsive to communication(s) filed on 18 FEB. 2003
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 1 1; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 4-9 is/are pending in the application.
Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 4-9 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement.

Application Papers

- ☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
- ☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
 - ☒ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been received.
 - ☐ received in Application No. (Series Code/Serial Number) _____
 - ☐ received in this national stage application from the International Bureau (PCT Rule 1 7.2(a)).

*Certified copies not received: _____

Attachment(s)

- ☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 13
- ☐ Interview Summary, PTO-413
- ☐ Notice of References Cited, PTO-892
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Other _____

Office Action Summary

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The request filed on 18 February 2003 for a Request for Continued Examination (RCE) under 37 CFR 1.114 based on parent Application No. 09/889,759 is acceptable and an RCE has been established. An action on the RCE follows.

1. As stated in the final rejection the text of the faxed amendment filed 28 August 2002 is still unreadable. The present amendment of 28 February 2003 does not address this objection. Any response to this office action must include the newly added text from the amendment of 28 August 2002 or it will be held non-responsive.
2. Claims 4-9 are rejected under 35 U.S.C. § 112, first and second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Formally claim 7 still contains inconsistent indenting of the last paragraph.

The newly added language to page 9 of the specification and to the claims is not understandable and does not particularly point out what is intended. In particular, the "sharply focusing antenna" is still not clearly described or shown. An "illumination geometry" is vague "with the antenna opening angles". What does this mean and how does it relate to the drawings? Also, Claim 7 defines an "antenna" on line 14 that is stated in a way to distinguish it as separate from the "antennas" on line 11 contrary to an array of two antenna elements phased to transceive in two different directions as seemingly also being argued. How does this constitute a "real aperture"? Consequently, there is no way to distinguish this language from the apparatus in the newly cited reference to Klausing as noted in the rejection below.

3. The specification is objected under 35 U.S.C. § 112, first paragraph as above.
4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. § 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 4-9 are rejected under 35 U.S.C. § 102(b) as being anticipated by Klausing.


Given the ambiguity in what is intended in the present claims and specification, the Fig. 7 embodiments of Klausing appear to teach the same concepts, since no distinguishing apparatus has been shown in the present invention.

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6. The drawings are objected under 37 CFR 1.83 in that every feature claimed must be shown as argued above.
7. Skolnik has been cited as submitted.
8. Any inquiry concerning this communication should be directed to Stephen C. Buczinski at telephone number (703) 305-1835.


STEPHEN C. BUCZINSKI
PRIMARY EXAMINER